



June 27, 2000

Mr. Mark Flowers
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR2000-2462

Dear Mr. Flowers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136516.

The City of Midland (the "city") received a request for certain radio log information. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code and that the city is prohibited from disclosing a portion of the responsive information by Transportation Code section 731.002. We have considered your claims and reviewed the submitted information.

We first note that the submitted information contains certain confidential information. Section 552.101 of the Government code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 58.007 of the Family Code makes law enforcement records of juvenile conduct that occurred after January 1, 1996 confidential. The submitted information identifies a criminal suspect who was apparently sixteen years old at the time of the May 26, 1998 incident. We have marked this information. It must be withheld under section 552.101 of the Government Code.

Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure if release of the information would interfere with the detection, investigation, or prosecution of crime. Gov't Code § 552.108(a)(1). You inform us that the requested information pertains to a pending case. Such information is generally excepted from disclosure by section 552.108(a)(1). However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing*

Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. --Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). We delineated this information in Open Records Decision No. 127 (1976). Subsequently, this office held that there is “no qualitative difference between the information contained in the radio logs and cards and that which was expressly held to be public in Open Records Decision No. 127.” Open Records Decision No. 394 at 3 (1983). We therefore conclude that the requested radio log information is not excepted from disclosure by section 552.108.

You also contend that the responsive information includes driver’s license and vehicle registration information. You assert that you are required to withhold this information under Transportation Code section 731.002. You relate that this information is “highlighted in Exhibit B.” We note, however, that none of the submitted information has been highlighted by you. Government Code section 552.130 requires that Texas driver’s license numbers, VIN numbers, and Texas license plate numbers, must be withheld. As section 552.130 of the Government Code disposes of this portion of the responsive information, we do not address your argument under the Transportation Code.

In summary, the law enforcement record of juvenile conduct that occurred on May 26, 1998, which we have marked, as well as Texas driver’s license numbers, VIN numbers, and Texas license plate numbers, must be withheld. The remaining information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental

body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MTB/nc

Ref: ID# 136516

Encl Submitted documents

cc: Mr. Jim McFadden
736 West Dengar Avenue
Midland, Texas 79707
(w/o enclosures)